

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
MR. A. BYTOM 'A'	75-berth marina, access road and ancillary building and facilities - Land at Coopers Hill Farm, Coopers Hill, Alvechurch - (as amended by email received 23.07.2007 and augmented by letter and plans received 12.10.2007)	GB LPA	B/2007/0802 07.11.2007

RECOMMENDATION: that permission be **REFUSED**.

Consultations

- WCC(HP) Consulted - views received 15.10.2007:
- No objection subject to Conditions.
- ENG Consulted - views received 31.07.2007:
- Mains drainage could be available in Withybed Green, but would require appropriate easements to gain access, and would require a pumping arrangement that must include on-duty and off-duty pumps.
 - Alternatively a biofilter type of system could be considered, though space available is limited both by the relief of the land and by the adjacent canal system.
 - Precise details will be required from the applicant for the disposal of foul sewage.
 - All hard standing areas, including the access road are to be served by soakaway systems. As should all structures. Consideration should be given for the use of a porous structure to such surface areas.
 - Any attenuated discharge directly to the canal system needs to be discussed with British Waterways.
 - Also, existing land drains and surface water run off from field systems are to be incorporated into the infrastructure of any drainage system. It should be noted that the southern boundary should not be encroached upon as this does offer surface water run-off for the Withybed area.
 - All fuels on-site are to be stored and protected in accordance to regulations enforced by the Environment Agency.
 - Procedures should be in place to allow / to attend to spillage both on land and on water (this to include for both sewage and fuel).
 - The disposal of storm water shall be by means approved by the LPA.
 - This site is bordered by a stream on its northern and eastern boundaries. There are also ditches within the site making this "bottom land" which is unsuitable for development unless ground levels are raised in conjunction with a land drainage scheme if a suitable outfall can be proved.

- A flood risk assessment is required, especially if the above-mentioned stream is culverted in any way. Any discharge into this watercourse will also need to be attenuated.

Planning Policy Consulted - views received 10.08.2007:

- The above site is situated within the Green Belt and therefore PPG2, policy D.39 of the Worcestershire County Structure Plan (1996 - 2011), and policy DS2 of the adopted Bromsgrove District Local Plan (adopted January 2004) applies. Policy DS2 states that permission for development in the Green Belt will not be given except in very special circumstances for the construction of new buildings or for the change of use of existing buildings unless certain instances apply, including: b) proposals are for essential facilities for outdoor sport and outdoor recreation (see policy RAT2).
- Para 3.12 in PPG2 states that: "The statutory definition of development includes engineering and other operations and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt."
- Policies RAT1, RAT2 and RAT34 of the BDLP are applicable, together with PPG17 Sport, Open Space and Recreation.
- The site is also situated in a Landscape Protection Area and therefore policies DS9, C1 and C4 of the BDLP apply. Policy C4 includes criteria for assessing development proposals which states: "Development will not be permitted where it would have a materially detrimental effect on the landscape, in particular within Landscape Protection Areas. When assessing the effect on the landscape, special attention will be given to the following: a) prominent slopes or major ridge lines; b) woodland and hedgerows including ancient areas of the same; and c) water features where these are an important component in the landscape."
- Other relevant policies include QE9 - The Water Environment of the Regional Spatial Strategy, and RST9 - Waterways and Open Water of the Worcestershire County Structure Plan. Policy ES16 - Landfill of the BDLP applies and states: "Applications for development which involves significant reforming of land and / or the importation of material of any kind, the purpose of which is to engineer levels which differ from existing levels, will be considered against the relative benefits and disbenefits of the proposal."
- PPS9 is of relevance to this application. I note that the marina will incorporate a series of narrow channels from the marina edge to provide habitat for water voles and other animals and vegetation types. The marina edge will also be surrounded by native scrub areas to increase biodiversity and habitat creation.

These measures are to be welcomed and no doubt our Natural Environment Officer will provide specific, detailed comments on these aspects. I would comment however that on the basis of the information provided, the impact of fill on the existing site is unclear and plans indicating proposed levels / sections are required in order to assess the overall impact across the site. Also, a tree and hedgerow survey and plans to indicate which of these elements are affected by the proposal and new landscaping proposals are required.

- In relation to the issue of farm diversification, policies C31 and C32 of the BDLP are also of relevance, together with PPS7 - Sustainable Development in Rural Areas, policy PA15 of the Regional Spatial Strategy and CTC.7 - Agricultural Land of the Worcestershire County Structure Plan.
- In conclusion, the main planning concerns can therefore be summarised as follows:
 - (1) Preservation of the openness of the Green Belt, particularly in relation to the proposed car park and access road.

(I note that measures are proposed to minimise the impact of the proposed building on the openness of the Green Belt in terms of its size, 10m x 4.2 m x 2.8 m high, and positioning within the topography. I also note the proposed access road would be screened and the car park would be constructed utilising geo-textile woven fabric to enable grass to grow through).
 - (2) Proposal to use fill to re-profile existing slopes in terms of impact on:
 - (a) the Landscape Protection Area; and
 - (b) existing vegetation, etc., and in particular existing trees and hedgerows.
 - (3) Impact of proposal on nearby residential properties.
 - (4) Policy ALVE 4 of the BDLP is identified as the site for open space and recreation in this area.
- I note that alternative sites have been investigated and that the supporting planning statement states that British Waterways has confirmed that there is still sufficient demand for moorings on this stretch of waterway.

Tree Officer

Consulted 20.07.2007: views received 20.11.07

- Although on a large scale over a wide area, the proposed development directly requires the loss of only a very few relatively young trees and hedges whose loss would appear to be more than mitigated by the proposed planting scheme.
- Of more concern, however, is the potential affect of the raising of ground levels through the deposition of spoil from the excavation of the marina onto the farmland to the north of the site. If the deposition of spoil causes the existing trees and hedgerows to be

left in gully-like features, then this would be expected to result in waterlogging of these areas and the decline and loss of the trees and hedgerows.

- I do consider, however, that waterlogging of these areas can be avoided if appropriate measures are employed resulting from the imposition of a Planning Condition on any approval.
- I therefore have no objection to the proposal, subject to Conditions.

NEO

Consulted - views received 10.08.2007:

- The proposed marina development will directly impact on a Landscape Protection Area, the Birmingham and Worcestershire canal Special Wildlife Site, and the habitat of numerous protected species. While the Environmental Statement supplied contains information on the specific effects on these, there are some areas where further information or a clarifying document is needed in order to ensure that the development meets the requirements of national, regional and local planning policies for the protection and enhancement of biodiversity interests, and the relevant wildlife legislation.
- At present, it is unclear what the effects of the re-profiling will be. A contour map of the existing site has been supplied, along with an explanation of the re-profiling works contained within the Environmental Statement. However, a similar contour map of the site after the re-profiling is needed to allow an accurate assessment of the extent of these works and the effect on the existing landscape and ecology.
- Similarly, at present it is unclear which, if any, of the existing hedgerows and trees will be affected by the development. Those being removed, those being retained and any enhancement planting should be clearly shown on a site plan. The possible effects of the re-profiling on the integrity and function of the existing hedgerows and trees should also be considered. Steps should be taken to retain and enhance these habitats wherever possible, and to meet with the policies of our Local Plan. The site is part of a Landscape Protection Area, as defined by policy C1 of the Local Plan. As such, development will not be permitted where it would have a materially detrimental effect on the landscape. Policy C4 states that special attention will be given to features such as hedgerows. Policy C12 recognises the importance of wildlife corridors, and gives the requirement that these be protected and damage minimised. Thereby, to comply with these policies, the application should take steps to ensure that the hedgerows are preserved and, where possible, enhanced, as they provide an important ecological and landscape feature, as highlighted by the Environmental Statement.
- The proposed measures for the protection of the water vole and enhancement of their habitat should in theory protect and provide

a benefit to this protected species. However, details of the exclusion procedure, mitigation and enhancement are needed prior to permission being granted in order to ensure that the requirements of PPS9 to maintain, enhance, restore or add to biodiversity interests; policy QE7 of the RSS and our Local Plan policy C11 which requires that due regard be paid to the specific requirements of statutorily protected fauna and flora are met. It is not acceptable to provide this information as a planning condition, as it is needed to help with the decision making process, in order to ensure compliance with the relevant planning policies and wildlife legislation. However, the delivery of the scheme will be achieved through a planning condition.

- A methodology of the exclusion techniques being used is required. Although the technique has been described, some clarification is needed on when this will take place, how long the area will be left bare prior to works commencing, how this fits in with the trapping of individuals, and whether water vole proof fencing will be used during the construction period. This methodology should follow the recommendations of the survey carried out by Land Care Associates April 2005.
- The soft edge of the marina and channels behind are considered to be appropriate and meet with approval. However, consideration could be given to the inclusion of additional plant species in the planting schemes, to provide additional diversity. More of the species listed in the Emec Ecology survey of June 2003 could be included. It should be made clear whether the coir rolls being used are of the pre-planted variety; these would be preferable as they will provide a certain level of immediate cover and food source. Further information on the location, profile and number of channels being created behind the marina edge is also needed. These could be shown on a plan of the marina, with cross sections.
- The Extended Phase 1 Habitat Survey Update carried out by Entec in June 2007 highlights the potential for bats to be roosting on the site, and for reptiles. Further, more detailed studies for these species have not been carried out. All species of bats are European protected species, protected in UK law by the Conservation Regulations 1994 and the Wildlife and Countryside Act 1981, and reptiles are protected by the Wildlife and Countryside Act. As such, they are a material planning consideration, covered by PPS9, by the RSS policy QE7 and by the Local Plan policy C11.
- If the development includes any works to trees, further surveys will be required to ascertain whether they are being used by bats, by what species, and to what end. Even without the known presence of roosts, the site is almost definitely being used by foraging bats, and therefore the development should provide features which benefit them. Consideration could be given to the inclusion of night scented plants in the hedgerow creation and

enhancement, and to bat boxes to increase the roosting potential. The 2003 Emec Ecology survey highlights the habitat creation opportunity afforded by the soil excavations. As the survey suggests, areas which have had the topsoil removed could be planted with a wildflower mix to add diversity to the site. This could potentially increase the invertebrates on the site, increasing the foraging potential for bats. External lighting should be kept to a minimum, and where necessary this should be sympathetic to bats so as not to affect their foraging. These measures should ensure compliance with PPS9 and our local planning policies, and with the relevant wildlife legislation.

- Similarly, features to benefit reptiles should be included in the development. There is potential to use some of the spoil generated by the development to create south facing slopes for basking. Similarly rock and log piles can be easily created. The landscaping scheme could be adapted to create a mosaic of habitats which include areas of scrub to benefit reptiles.
- The long term management of the site to the benefit of biodiversity should also be agreed prior to permission being granted. Maintenance should aim to prevent harm to water voles and other species using the site. This should include consideration of the timing of works, with a staggered approach which leaves area of refugia for species being preferable. Consideration should also be given to the appropriate disposal of materials dredged from the marina in the future.

Reconsulted on amended plans - views received 29.10.2007:

- Content to resolve water vole mitigation measures through a pre-commencement Condition.
- Any tree and hedgerow issues will need to be resolved with the Council's Tree Officer.

EHO

Consulted - views received 17.09.2007:

- My main area of concern is that of dust arising during the excavation / construction of the development if it receives approval.
- Suggest Conditions relating to dust control measures.

EHO

Consulted - views received 13.08.2007:

Contaminated
Land

- No objection subject to Conditions.

EDO

Consulted - views received 30.07.2007:

- Economic Development supports the application.

EA

Consulted - views received 27.09.2007:

- Objection.
- With reference to Environment Agency and British Geological Survey data, the proposed development is shown to lie on the Mercia Mudstone Group. This is designated as non-aquifer.

- The above factors would make the site very low vulnerability, however, there is no mention in the submitted reports and documentation supporting the application of the Coopers Hill Landfill, which lies within northeast section of the site boundary. This is classed as a Historic Landfill. This landfill is believed to have been operational during construction of the M42 in 1984 and from basic Environment Agency data, the landfill was licensed and is shown to have received Inert, Industrial and Special Waste.
- In view of the above, there is a possibility that the development of the proposed marina may set up a viable Source-Pathway-Receptor pollutant linkage. Furthermore, it is unclear from the supplied various maps whether or not the proposal would introduce pathways from the Landfill to the proposed marina and canal.
- It is understood that some re-profiling of the Landfill may take place. This is indicated on Figure 3.1 (Illustrative Masterplan Cross Section C-C1). This raises some concern as the extent of the landfill may or may not have been accurately mapped.
- Where contamination is known or suspected at a site PPS23: Planning and Pollution Control states that "sufficient information should be required to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether these can be satisfactorily reduced to an acceptable level."
- It is recommended that a risk assessment, possibly with intrusive investigation should be undertaken. This would be in order to delineate and characterise the potential risk from landfill leachate to the identified receptors.
- We look forward to further information as regarding the risk to controlled waters during construction (Table 4.1 Scoping Matrix: Water Related Issues). It is understood from the comments provided that these issues have not been discussed in the current Environmental Statement.
- We also acknowledge the statement regarding the possibility of the requirement of Consents (Section 3.5). This would relate specifically to the statements found in Spillages, Leaks and Dewatering (Table 3.3). The mitigation incorporated into the proposed development indicates that in the event of a spillage, water would be stored in a settling lagoon prior to the disposal into a nearby watercourse or the canal. We would have to impose strict controls on the chemical quality of the stored water before any discharge could be agreed.

Additional views received 04.10.2007:

- Following the submission of additional geotechnical information, these details satisfy the EA's groundwater and contaminated land concerns and we are therefore now in a position to remove the previous objection, subject to Conditions.

Rights of Way	Consulted 26.07.2007: views awaited.
Ramblers Association	Consulted 26.07.2007: views awaited.
Network Rail	Consulted - views received 01.08.2007: <ul style="list-style-type: none">• No objection subject to informative.
British Waterways	Consulted - views received 13.08.2007: <ul style="list-style-type: none">• Waterways and water bodies have an inherent constraint in that they are non-footloose assets as their location and alignment are fixed. Marinas and mooring basins are seen as essential facilities to support the use of the waterways for tourism and leisure and are part of the waterway infrastructure and therefore, are vital for the long-term sustainability of the waterway network.• There is national shortage of secure offline moorings and this lack of supply of moorings was first raised in early versions of PPG17. Demand for boat ownership on BW waterways has grown steadily at average 2.4% pa over the past 5 years to April 2006. Demand has increased amongst all age groups but particularly amongst the over 50s. Demographic forecasts suggest that growth in boat ownership will accelerate over the next 10 years, with 11,700 additional moorings berths required on BW owned / managed network by 2015.• The Association of Inland Navigation Authorities (AINA) and British Waterways' policy aim is to encourage private investment in offline marinas and mooring sites. This is due to a number of operational, navigational and practical limitations associated with on-line moorings. In response to the challenge of increasing the provision of off-line moorings as opposed to on-line moorings, British Waterways has established a dedicated in-house team, New Marina Unit, to work with LPAs and developers to create private investment in off-line marinas and mooring site on our network.• Expansion in mooring capacity is generally constrained by factors such as water supply and navigational safety. The location of the proposed development is unlikely to generate any navigational safety issues. Furthermore, from information provided by the applicant and detailed assessment of water resources and boat traffic modelling in the locality, BW can confirm that the local waterway infrastructure will be able to accommodate the proposed new development. Therefore, in light of these detailed assessments and the reasons cited above, BW supports the proposed development as a navigation authority.• The application includes a report provided to the applicant by British Waterways indicating the negative characteristics of 14 alternative marina locations on this canal. Since this information was supplied in 2004, BW as developed new principles and processes for responding to applications to use for off-line marinas to access our network. The previous issues perceived

as negative, such as towpath disruption and location below the Droitwich Canal, are no longer considered to be automatically negative and applications for marinas at all locations will be assessed under our new process. Unless there are difficulties with water supply or serious navigational safety problems, BW will support such applications

- The Government wishes to increase the economic, environmental and social benefits offered by the inland waterways including:
 - Promoting the waterways as a catalyst for urban and rural regeneration
 - Encouraging the use of the waterways for tourism, leisure, recreation and rural regeneration
 - Supporting the development, improvement, development, regeneration and restoration of the inland waterways through the planning system
 - Economic demand model to assess the impacts of this particular marina development. Essentially the model uses estimated visitor numbers and multipliers to calculate the resultant spend and employment opportunities created
 - Traffic generation from marina developments and illustrations of marina developments where impact upon visual amenity and landscape character have been successfully mitigated
 - Measures being undertaken by British Waterways on this particular waterway to address the current and future shortage of off-line moorings.

IWA

Consulted - views received 03.08.2007:

- IWA confirms the observation in Entec's report that there is a present a national shortage of mooring facilities for canal boats and, therefore, in principle, supports the applicant's proposals.
- However, IWA points out that this shortage is across the range and, therefore, in the same way as there is a need to provide social inclusive dwellings in a residential development there is a similar need in a marina development to provide socially inclusive moorings.
- Thus, because many boats are not wired for plug in electricity, there needs to be a good quantity of basic moorings (that is, without en-suite facilities), as well as provision of moorings as proposed with all services at each mooring points, and IWA objects to this omission and asks that the applicant be asked to provide at least 30% of the moorings with minimal facilities.
- Therefore, to sum up, IWA supports the proposal to build mooring facilities at Coopers Hill Farm but objects to the exclusion of basic mooring facilities in the proposed scheme.

Severn Trent
Water

Consulted - views received 13.08.2007:

- No objection subject to Conditions.

- WMC Consulted 20.07.2007: views awaited.
- WWT Consulted - views received 22.08.2007:
- No objection.
 - Biodiversity and sustainability is taken into account sufficiently.
- Natural England Consulted - views received 13.09.2007:
- This represents Natural England's formal consultation response under Section 28 of the Wildlife and Countryside Act 1981 (as amended).
 - The Environmental Statement takes on board previous advice given by the Rivers and Species Officer and, as a consequence, will actively promote the national Biodiversity Action Plan.
 - Natural England has no further comments to make.
- CPRE Consulted 20.07.2007: views awaited.
- Alvechurch PC Consulted - views received 06.09.2007:
- No objection.
 - Alvechurch Parish Council are in support of the development as it will enhance the tourist population.
- Publicity
- 2 letters sent 24.07.2007 (expire 14.08.2007).
7 site notice posted 02.08.2007: (expire 23.08.2007).
1 press notice published 27.07.2007 (expires 17.08.2007).
1 press notice published 03.08.2007 (expires 24.08.2007).
- Worcester Birmingham Canal Society - views received 17.08.2007:
- The Society considers that this development would help meet the unfulfilled demand for permanent off-line moorings on the Worcester and Birmingham Canal. It therefore fully supports the principal of this application.
 - We consider the proposed location is appropriate.
 - It is well located in relation to the West Midlands Conurbation with adequate road access given the level of traffic that it would generate. The access to the canal should not cause navigation problems.
 - Although located in the Green Belt, the site is screened on the east side by the railway embankment and by rising ground to the north and west and will thus not be obtrusive.
- 1 petition containing 14 signatories with the following heading:
We, the undersigned, object to the proposed marina in its current format on the grounds of security and invasion of privacy. Our concerns would be removed should the plans contain the following:
- (1) *A footbridge from the marina to the towpath adjacent to the railway bridge. This would remove the need for foot traffic along Birches Lane and through Witherby Green.*
 - (2) *Signposts informing visitors of the location of village amenities.*
 - (3) *A covenant upon the plans preventing any further development.*

14 letters received:

- Encroachment into the Green Belt.
- Spoil countryside ambience.
- Spoiling of the existing canal-side aspect.
- Why is a further marina required given the existing marina in Alvechurch? This is under-utilised.
- The village services in Alvechurch will not be able to cope with the extra demands of the users.
- The infrastructure required (such as sanitation) makes the scheme unacceptable.
- The road system to serve the development is inadequate.
- Additional traffic usage of Callow Hill Road.
- Wildlife issues.
- Drainage issues.
- Noise.
- Pollution.
- Dust.
- Danger to health and safety.
- Security issues and increase in pedestrian traffic through Birches Lane and Withybed Green due to people creating a short cut to the Public House and village amenities.
- Loss of privacy.
- Disruption during construction phase.

The site and its surroundings

The application site of 4 hectares is located to the south of Callow Hill Road and to the north of Birches Lane and Withybed Lane. The Worcester to Birmingham Canal and the Redditch branch line run to the eastern boundary. An area of small managed woodland is located to the south-west of the site, with a public right of way running from the termination of Birches Lane to Callow Hill Road. Pasture land is located between the dwellings in Birches Lane and the application site to the north, with a field boundary delineating this boundary. The land is undulating and rises to midway into the site to the north and again towards Callow Hill Road. A vehicular access to the site is located off Callow Hill Road to the northern boundary. Coopers Hill Farm is located to the immediate north-west of the site.

The land relates to improved grassland for grazing purposes. The land has an Agricultural Land Classification of Grade 4 and is therefore classed as being "poor".

The site is located within recognised Green Belt and a designated Landscape Protection Area.

Proposal

This application relates to a full application for the construction of a 75-berth soft-edge marina which will provide moorings for narrow boats on a series of fixed pontoons. The marina is **not** proposed for permanent residential moorings (confirmed in paragraph 3.1.2 of the submitted Supporting Planning Statement). The marina has a surface area of approximately 1.15 hectares and will be excavated to a maximum depth of 2 metres. The site will be enclosed by new landscaping. All materials excavated from creating the marina will be used to landscape surrounding areas and will not be exported from the site. The soft edge will be lined with coir rolls to allow for the establishment of new wetland habitats. According to the submitted planning statement, the design for the marina has been developed with regard to British Waterways Design Guidance, consultation responses from various statutory and non-statutory bodies and findings of various site surveys.

The marina will provide the following facilities:

- 75 pontoon moorings with electricity, water supply and low level lighting on a series of bollards.
- Car-parking for 40 vehicles, consisting of 28 spaces in the main car park and a further 12 spaces located in two lay-by areas to the west and south of the marina aspect. The car parking area will be constructed using geo-textile woven fabric to act as a reinforced base for year round parking. A grass cover will establish over the geo-textile to create a green grass car park.
- Boater's facility building (to include an office, store room, two toilets and a toilet waste disposal point). The building will measure 10 metres by 4.2 metres with a height to ridge of 2.8 metres. The walls will be constructed using concrete blocks faced externally with treated softwood vertical boarding and the roof will be constructed using fibre cement profile sheeting. The building contains a large overhang canopy to the front elevation. The toilet waste disposal point will be accessible from outside the building and consists of a 15,000 litre underground storage tank and pump-out service and chemical toilet waste (elsan) disposal point.
- Refuse compound.
- Fully bunded diesel fuel tank with a capacity of 2,500 litres to facilitate diesel re-fuelling. This is proposed to be positioned on a concrete base and surrounded by drainage incorporating an oil interceptor.
- Sale of bottled gas.

According to the applicant's Agent, once operational it is claimed that there will be no substantial increase in canal traffic as a result of the new marina. It is expected that a number of the berths will be filled from existing online moorings by boaters who would prefer an offline mooring. In addition, as the majority of the moorings will be long term moorings, it is likely that boaters will use their boats at different times and boat trips will be generally infrequent.

For the reference of Members, there are two basic types of moorings found on the inland waterways:

- **On-line:** moorings located along the banks of the waterway's navigable channel; and
- **Off-line:** moorings located off the navigational channel in a lay-by, mooring basin or marina.

New utility services will be installed to service the development. This includes provision of a water supply, which will be connected to the existing water supply on Callow Hill Road and will run parallel to the access track. In addition, a new electrical supply will be provided by connecting to the existing overhead cables which run adjacent to the site. The connection will be through a junction box linked to underground cabling to the facilities building. From there it will be distributed to the pontoons / moorings.

A new vehicle access track to the marina will be constructed off the existing field access from Callow Hill Road to the northern boundary. The track (including passing places) follows the eastern boundary of the site adjacent the railway line and is proposed to be constructed from a permeable surface treatment. The track is 5 metres in width. Towards the southern aspect, the track surrounds the marina aspect and contains dispersed parking areas, in addition to a larger parking area consisting of 26 spaces to the north of the marina adjacent the proposed boater's facility building. It is proposed to soften the appearance of the track through the use of landscape planting.

An Environmental Statement (including Non-Technical Summary), Supporting Planning Statement and Design and Access Statement have accompanied the application and are available in the relevant planning file should Members wish to view them.

Relevant Policies

WMSS	RR1, RR3, RR4, PA1, PA10, PA14, PA15, QE1, QE2, QE3, QE6, QE7, QE8, QE9, T1, T2, T7
WCSP	SD.2, SD.3, SD.4, SD.5, SD.8, CTC.1, CTC.2, CTC.5, CTC.6, CTC.7, CTC.8, CTC.9, CTC.12, CTC.14, CTC.15, D.38, D.39, D.43, T.1, RST.1, RST.2, RST.9, RST.14, RST.15
BDLP	DS2, DS3, DS4, DS5, DS9, DS13, C4, C5, C10A, C12, C16, C17, C31, C32, TR11, RAT1, RAT2, RAT22, RAT23, ES1, ES2, ES3, ES4, ES5, ES7, ES8, ES14, ES16
Others	PPS1, PPG2, PPS7, PPS9, PPG13, PPG14, PPG17, PPS23, PPG24, PPS25, Circular 06/98, Circular 06/05

Relevant Planning History

B10397	Erection of replacement farmhouse (outline): approved 21.02.1983.
B8659	Infilling of dry valley and reinstatement of agricultural use: approved 01.07.1981.
B8210	Filling of dry valley with inert material: refused 23.02.1981.

Notes

I consider the main issues with this application to be:

- (a) whether the proposals are appropriate development in the Green Belt and if not whether there are any special circumstances which would override the harm caused;
- (b) Impact on character and appearance of the locality;
- (c) Implications for highway safety and egress;
- (d) Sustainability issues;
- (e) Ecology and protected species issues; and
- (f) Effect on residential amenity.

Policy Issues

Policy D.39 of the adopted Worcestershire County Structure Plan states that there will be a presumption against allowing inappropriate development in the Green Belt as stemming from national planning guidance PPG2: "Green Belt". Inappropriate development is, by definition, harmful to the Green Belt. Policies D.12 and D.38 of the Worcestershire County Structure Plan and policy DS2 of the Bromsgrove District Local Plan are in general accordance with PPG2 in resisting development in the Green Belt unless the proposals fall within a defined list of appropriate development. Paragraph 3.15 of PPG2 states that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design.

Paragraph 23.1 of the Bromsgrove District Local Plan notes that tourism can provide opportunities for improving the economy of rural areas where potential for growth in other forms of services and industry is limited and is therefore relevant to Bromsgrove where so much of the District is designated Green Belt. However, tourism depends on a high quality environment and therefore the needs of tourism have to be managed in order to achieve environmental protection and enhancement. The central objective is to achieve 'sustainable development' that serves the interests of both economic growth and conservation of the environment.

Policy RAT22 of the BDLP encourages proposals that improve the quality, appeal and range of visitor attractions, activities and facilities, and which make a positive contribution to the economic, social and environmental well-being of the District. Particular encouragement will be given to those proposals which have a special affinity with the physical environment. This policy goes on to state that proposals in the Green Belt and Landscape Protection Areas will be considered in the context of the policies applicable in these locations. Paragraph 23.6 of the BDLP denotes that visitor attractions and activities have an increasingly important role to play in creating a reason for visits to the area, retaining visitors' interest and encouraging longer stays and more spending and providing recreational and educational facilities for local residents. Paragraph 23.7 states that the main opportunities for new attractions are for creative, well funded themed attractions related to the area's heritage and for those related to past or present day industry such as visitor centres, interpretation sites and factory visits.

Policy RAT23 supports the development of sustainable tourism schemes by allowing proposals for new tourism initiatives or the expansion of existing ones which comply with the planning policies of the District Council. Among a list of criteria, the District Council will encourage tourism that conserves the urban and rural environments.

PPS7 recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. It states that "*local planning authorities should be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location.*" In respect of diversification schemes in the Green Belt, it states that Local Planning Authorities should, where relevant, give favourable consideration to proposals for diversification in Green Belts where the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. PPS7 also gives further guidance in respect of the promotion of tourism and leisure in rural areas by stating that planning policies should support sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors and which utilise and enrich, but do not harm, the character of the countryside, its towns, villages, buildings and other features (paragraph 34).

PPG17 recognises open spaces, sport and recreation all underpin people's quality of life. Well designed and implemented planning policies for open space, sport and recreation are, therefore, fundamental to delivering broader Government objectives. In respect of providing recreational facilities in rural areas, paragraph 26 states that proposals for farm diversification involving sports and recreational activities should be given favourable consideration. Furthermore, it states that all development in rural areas should be designed and sited with great care and sensitivity to its rural location.

The key principles of PPS9 highlight that planning decisions should aim to maintain, and enhance, restore or add to biodiversity interests and that policies should promote opportunities for the incorporation of beneficial biodiversity features within the design of development. The proposed development is considered to support these principles. As highlighted in section 5 of this report, new wetland habitats suitable for water voles will be created and comprehensive landscaping will further enhance the biodiversity interest of the site.

Policy DS13 of the BDLP requires development to protect the Plan area's essential character and main environmental assets, including the open and undeveloped nature of the countryside and the Green Belt. Policy C4 states that development will not be permitted where it would have a materially detrimental effect on the landscape, especially within Landscape Protection Areas (LPAs). Policy CTC.1 of the WCSP sets out a general requirement that the Local Planning Authority in considering development proposals should take every opportunity to safeguard, restore or enhance, as appropriate, the landscape character of the area in which they are proposed. Proposals for development and associated land use change or land management must demonstrate that they are informed by, and sympathetic to, the landscape character of the area in which they are proposed to take place. Policy C16 of the BDLP states that schemes involving transport and related infrastructure should be planned to minimise the impact on the landscape and wildlife, in particular avoiding the fragmentation of wildlife sites and the destruction or diminution of important elements in the landscape.

Harm Caused

The applicant considered that the proposed development complies with the guidance contained in PPG2 in meeting a number of objectives of Green Belt Policy (namely, providing access to the open countryside, providing opportunities for outdoor sport and outdoor recreation near urban areas and securing nature conservation interests).

The applicant considers the provision of the marina to fulfil these objectives, particularly given that it creates an outdoor recreation facility close to a number of urban areas including Birmingham, Bromsgrove and Redditch. The applicant is also of the view that the scheme will create additional wetland habitats, thus securing further nature conservation habitats in the locality. On this basis, the applicant considers the scheme to represent appropriate development in the Green Belt.

One of the objectives of land use within the Green Belt referred to in PPG2 is "to provide opportunities for access to the open countryside for the urban population [and] to provide opportunities for outdoor sport and outdoor recreation near urban areas." Criteria (b) of policy DS2 of the BDLP regards proposals that are for **essential** (my emphasis) facilities for outdoor sport and recreation. This is reflected in policy DS2 of the Bromsgrove District Local Plan and policy D.39 of the Worcestershire County Structure Plan. Paragraph 3.5 of PPG2 goes on to state that 'these essential facilities should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it'.

I accept that canal and canal basins are a feature of the English countryside. The use of the marina by narrow boats would not conflict with the purposes of including land within the Green Belt. However, this is only one of the tests in paragraph 3.12 of PPG2 which states that engineering operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

Narrow boats are substantial man-made objects and I am of the view that a concentration of up to 75 vessels (with a length of up to 21 metres) would have an adverse impact on the openness of the Green Belt in this location. Although the applicant has stated that the marina is not proposed to accommodate permanent residential moorings, it is common that owners of narrow boats moor their vessels in one place for large parts of the year, other than for holidays and weekends away. In this respect, I consider that the impact on the openness of the Green Belt would not be of a transient nature when compared to sporting activities.

I consider the proposal would go against the fundamental aim of Green Belt policy (PPG2, paragraph 1.4) to prevent urban sprawl by keeping land permanently open. The site lies in an undeveloped rural location in open countryside. By developing land in the countryside, the proposal would also not encourage the recycling of derelict or other urban land.

Advice within National Planning Policy Guidance Notes and Statements and Policies within the WCSP and BDLP makes it clear that the impact upon the character of the locality, as well as the relationship of proposed developments to the surrounding area, to be legitimate material factors to take into account in the determination of planning

proposals. Indeed, Government guidance advocates the rejection of poorly designed developments, including those that are clearly incompatible with their surroundings.

In addition, whilst I am of the view that the access track, passing places and car-parking areas would not, in themselves, damage the openness of the Green Belt, it is considered that such development would conflict with the purposes of including land within the Green Belt due to encroachment, contrary to the advice in paragraph 1.5 of PPG2. It is not just the laying of the track and parking areas that would be harmful, but also the facilitating of these areas to accommodate parked vehicles of unrestricted sizes and colours that would harm the openness of the Green Belt and detract from the rural character of the site in this location.

I also consider the proposal would go against the intentions of Green Belt policy to ensure development takes place in locations allocated within development plans. This policy stance is supported by policy PA1 of the WMSS which states that, wherever possible, economic growth should be focused on the MUA's. Outside MUA's, emphasis should be given to locating development where (amongst other criteria) it can help create more sustainable communities by providing a better balance between housing and employment. Policy PA14 states that, even where development helps provide a sustainable rural economy, most development should be concentrated in towns and other large settlements accessible to their hinterlands. This is supported by policy T.2 which seeks to reduce the need to travel, particularly by car, by encouraging developments which generate significant travel demands to be situated where accessibility to public transport links is maximised.

The application site is not in the town centre and not well-served by public transport facilities. I consider it likely that users of the site are likely to make trips via private car with their provisions for a holiday or weekend away. The proposed car-parking areas accommodates and facilitates such trips. I therefore do not consider that the proposal would promote sustainable transport choices or reduce the need to travel by car.

On this basis, I consider that the proposal constitutes inappropriate development, that it conflicts with the purposes of including land in the Green Belt and that it would have an adverse impact on the openness of the Green Belt. I also find that the proposal conflicts with national policy with regard to the sequential approach and, as a consequence, development plan policy which seeks to focus development in town centres and urban areas. It is necessary, therefore, to consider whether there are any very special circumstances to outweigh the harm caused to the Green Belt caused by reason of inappropriateness and any other harm.

In considering proposals for inappropriate development in the Green Belt, paragraph 3.2 of PPG2 is relevant:

"Inappropriate development is, by definition, harmful to the Green Belt. *It is for the applicant to show why permission should be granted.* Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is *clearly outweighed* by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach *substantial weight* to the harm to the Green Belt when considering any planning application or appeal concerning such development" (*Council emphasis*).

The words "very special" to be given their ordinary, natural meaning. The meaning of the word "special" include those which exceed or excel those which are common. The test in relation to Green Belt policy qualifies that meaning to the extent that the circumstances have to be "very" special. Members will now be aware that establishing very special circumstances involves a balancing exercise. On the one side is the extent of the harm to the Green Belt by virtue of inappropriateness and any other factors. On the other side are the positive advantages of the proposal. Very special circumstances exist where the advantages outweigh the harm.

Members will be aware that the applicant has taken the view that the proposal does not conflict with the purposes of including land within the Green Belt, nor will the scheme adversely impact on the openness of the Green Belt. This is attributed to the provision of recreation within the Green Belt, the scale of the proposed development, the existing topography of the site and the proposed additional landscaping. Reference is also given to farm diversification. For the purposes of the balancing exercise, I have taken these points into consideration.

I accept that the addition of a marina to the canal network would create opportunities for the boating fraternity with improved access to the canal system. I note that British Waterways identify a need for marinas but no evidence has been submitted to show that this need has to be met in the Green Belt. Whilst I am of the view that it would appear there is a degree of need for increased canal leisure facilities within the District as a whole, I am of the view that such need does not carry sufficient weight to amount to very special circumstances necessary to justify inappropriate development in the Green Belt. Such an approach could be applied widely throughout sites adjacent urban areas, seriously undermining the principal aim of Green Belt policy which is to prevent urban sprawl and maintain openness. I am of the view that such need could be met in the wider area with particular regard to non-Green Belt locations and not solely in Alvechurch. I am also aware of an existing canal marina facility at Scarfield Wharf, Scarfield Hill, within the settlement of Alvechurch.

I am also of the view that despite the existence of limited screen planting and the implementation of additional and reinforced screen planting to the perimeter of the marina and flanking the access track, these would not form an impenetrable visual barrier and the site would be clearly visible from public vantage points from the canal and associated towpath, the railway line from views arising from the canal bridge in Withybed Green. It is also fair to assume that this aspect of the canal is a corridor through which many visitors to the District will travel along and for many their only perception of the District would be from a slow moving narrow boat. Oblique views would also arise from the Public Right of Way to the south-west of the site.

I recognise that, in time, planting could, to some extent, mitigate against the adverse visual impact of the development. It would take many years, however, before the planting would be of sufficient height and maturity to screen the access arrangements, the vehicles and the moored vessels. Such screening would also be less effective during winter months when a greater concentration of boats is likely within the basin. Trees and hedges are also not permanent and cannot undo the permanent impact of the use of the track and hard surfacing, nor the overt visual impact of the development. Furthermore, although development cannot be seen in the wider context does not make it appropriate

and this argument could be used time and time again. Lack of harm, in itself, does not amount to very special circumstances.

Members will be aware that policy C31 of the Bromsgrove District Local Plan notes that the District Council will seek to support farm diversification schemes where proposals are of an appropriate scale and can be accommodated within a rural location without detriment to the environment. Paragraph 10.38 of the BDLP notes that farm diversification opportunities can allow economic, social and environmental benefits to filter into the countryside. This aim needs to be offset against the presence of the Green Belt and the need to protect it against unsuitable uses. Consequently, diversification proposals will be considered against their effect on the Green Belt and treated accordingly.

On this basis, I am of the view that the harm to the Green Belt and the other harm is not outweighed by very special circumstances.

Ecological and Biodiversity Issues

The Habitats Regulations implements the requirements of the Habitats Directive for species listed in Annex IV of the Directive (European Protected Species). Stricter provisions than those contained in the Wildlife and Countryside Act 1981 apply for these species and regulation 3(4) of the Habitats Regulations places a duty on Local Planning Authorities, in the exercise of their functions, to have regard to the requirements of the Directive so far as they might be affected by those functions. All European protected species are also separately protected under the Wildlife and Countryside Act 1981.

PPS9: *Biodiversity and Geological Conservation* sets out planning policies on protection of biodiversity and geological conservation through the planning system. PPS9 encourages Local Planning Authorities, in making planning decisions, to maintain, and enhance, restore or add to biodiversity and geological conservation interests. In taking decisions, Local Planning Authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment (paragraph 1). PPS9 goes on to state that the aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, Local Planning Authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, Local Planning Authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused (paragraph 1).

Circular 06/05: *Biodiversity and Geological Conservation* provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the expression of national planning policy in Planning Policy Statement 9, Biodiversity and Geological Conservation (PPS9).

Part IV of Circular 06/05 relating to the Conservation of Protected Species by Law is implicit in stating that the presence of a protected species is a material consideration when a Local Planning Authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat (paragraph 98). Circular 06/05 goes on to state that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted (paragraph 99).

Circular 06/05 also makes it clear that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations, before the permission is granted. In appropriate circumstances, the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the appropriate procedure (paragraph 99).

An ecological assessment of the site was undertaken in June 2003. The assessment concluded that the habitat which will be directly affected by the marina is of limited ecological interest and that overall, if appropriately planned and with suitable mitigation and planting, the negative ecological impact of the proposed marina should be minor. It also noted that there is considerable scope for positive impact, particularly through creating additional habitat suitable for water voles. The assessment recommended that a further water vole survey be carried out to identify any burrows within the section of bank to be affected and inform the water vole mitigation strategy. A water vole survey was carried out in April 2005. The survey found that there is evidence of the presence of water voles and concluded that, although the proposed works will have a small initial impact on the canal bank, the proposed works will improve the area for water voles should the sympathetic plan be adhered to which includes keeping soft edges or using coir matting around the marina's edge. The survey also recommended that a two metre wide strip of vegetation should be planted around the edge of the marina along with a suggested order of construction works and a course of trapping to be undertaken to mitigate against possible impacts upon water voles.

The NEO has raised no objection to the scheme, subject to the imposition of suitable Conditions. Natural England has commented that the Environmental Statement takes on board previous advice given by the Rivers and Species Officer and, as a consequence, will actively promote the national Biodiversity Action Plan. As such, I consider the scheme to comply with policy QE7 of the West Midlands Spatial Strategy, policy CTC.12 of the Worcestershire County Structure Plan and policy C10a of the Bromsgrove District Local Plan, which all refer to nature conservation and biodiversity and the presence of statutorily protected species in the development control process. These policies reinforce the philosophy of both PPS9 and Circular 06/05.

Flooding Issues

Policy ES2 of the Bromsgrove District Local Plan states that proposals involving new development will not normally be permitted where there is a known risk of flooding, or where the Environment Agency indicate there are potential problems. The EA has raised no objection to the scheme on these grounds.

Traffic and Highway Implications

Although I note the views relating to highway safety raised by third parties, the WCC(HP) raised no objection to the scheme subject to the imposition of suitable Conditions.

Housing Oversupply Issues

Given the scheme does not relate to permanent residential moorings, I do not consider the issue of housing oversupply to be relevant in this instance. However, should Members be mindful to grant consent, I suggest it would be pertinent to impose a suitable Condition to prohibit permanent residential moorings.

Impact on the Amenity of Adjacent Occupiers

The closest dwellings to the site are the 6 dwellings set in one block known as Lock Keepers Cottages immediately south of the site. The scheme would also have an impact on those dwellings on the northern side of Birches Lane. Members will be aware of the third party objections to the scheme, with particular reference to comments relating to the impact of the development on Withered Green and Birches Lane.

The applicant's Agent has pointed out that the number of boats is likely to be similar to the current situation and points out that the marina will provide better accommodation for the existing boats that are moored along this section of the canal, than increasing the number of boats in the area. Although I note these views, the concentration of up to 75 vessels that are tightly packed when moored will inevitably lead to a greater impact in terms of potential activities (for example, running engines, the testing of engines, walking on gangways, televisions and radios in boats, pumping discharges, dogs and talking) and this will have an adverse impact on the amenities of the occupiers of these properties. However, given the relationship of the marina and the location of the existing dwellings, I consider it difficult to refuse the application on the issue of harm to residential amenity alone.

Furthermore, paragraph 29 of PPS1 notes that the planning system does not exist to protect the private interests of one person against the activities of another. While I note local residents whose properties overlook the site would not wish to lose this view, the fact that they would be replaced by views of vessels would not amount to a loss of amenity which ought to be protected in the public interest.

Conclusions

My attention has also been drawn to national guidance in relation to the use and development of the network of canals, as well as the relevant Planning Policy Guidance

notes and Planning Policy Statements. I have taken this into account as well as the generalised support for new marina facilities expressed by British Waterways.

Although located adjacent the settlement of Alvechurch, the application site and the surrounding land is thoroughly divorced from the urban atmosphere of Alvechurch by virtue of the railway line and, effectively, relates to open countryside. The land is in recognised Green Belt and within a designated Landscape Protection Area. I acknowledge that elements of national planning guidance and Development Plan Policies are supportive of the applicant's objectives in respect of farm diversification, rural enterprise and tourism and the provision of canal-related leisure facilities. On the other hand all national planning guidance and policies seek generally to protect the character and appearance of the landscape and the amenity of existing residents. Members will also be aware of the aim and objectives of Green Belt Policy and the purposes of including land within the Green Belt.

I am of the view that the appearance of the locality would change. The formation of a 75-berth marina facility would be of major significance to the present relatively tranquil waterside scene that exists at present. The development would be visible from several public vantage points. I accept that the manner of excavation of the water basin and the disposal of surplus excavated material on the adjoining fields at a gentle gradient has been designed to be visually unobtrusive. Although the site in this location is sensitive to change given its Landscape Protection Area status, I consider this aspect of the scheme would not cause positive harm to it. However, I consider the scale of the marina, the provision of the access track and associated parking areas and boat user servicing facilities, together with the way in which users will be using the site by day and night are all important planning issues in this location. I consider it important to recognise that the combination of the lighting bollards, lighting to serve the building, diesel and refuge facilities, in addition to lights emanating from entering and exiting vehicles and the vessels themselves would illuminate the site far more significantly than present outside daylight hours.

Despite the views expressed by the applicant's Agent, I am of the view that the proposal constitutes inappropriate development, that it conflicts with the purposes of including land in the Green Belt and that it would have an adverse impact on the openness of the Green Belt. I also find that the proposal conflicts with national policy with regard to the sequential approach and, as a consequence, development plan policy which seeks to focus development in town centres and urban areas. No very special circumstances exist or have been put forward to outweigh the harm caused.

As such, I find the scheme to be unacceptable.

RECOMMENDATION: that permission be **REFUSED**.

1. The proposed development relates to inappropriate development in the Green Belt. The cumulative impact of the scheme would significantly harm the openness and visual amenities of the Green Belt and would be contrary to the aims and objectives of Green Belt Policy and the purposes of including land within the Green Belt. The application site is not within an urban area and is not in a location well-served by public transport. Users of the facility would be highly dependent upon

the private car and the proposal does not minimise the need to travel or promote sustainable transport choices.

2. No arguments have been put forward to support the development that amount to very special circumstances that would clearly outweigh the harm caused and, therefore, the proposal is contrary to policies PA1, PA14 and T2 of the West Midlands Spatial Strategy, policies SD.2, SD.4, D.28, D.38, D.39 and T.1 of the Worcestershire County Structure Plan, policies DS2, DS9, DS13, C4 and C16 of the Bromsgrove District Local Plan and the provisions of PPG2.